



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097083,198	05/22/98	BRINGI	V 021653.0138

LAURENCE H. POSORSKE
BAKER & BOTTS
THE WARNER; SUITE 1300
1299 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004-2400

HM12/0907

EXAMINER
MARX, I

ART UNIT	PAPER NUMBER
1651	//

DATE MAILED: 09/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/083,198

Applicant(s)
Bringi

Examiner
Irene Marx

Group Art Unit
1651



☒ Responsive to communication(s) filed on 9/15/98 and 2/24/9

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-3, 21, and 24-70 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-3, 21, and 24-70 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4-8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

The preliminary amendments filed 9/15/98 and 2/24/99 are acknowledged. Claims 1-3, 21, and 24-70 are being considered on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 1 is confusing in that it is unclear what the function of the "enhancement agent" is from the context.

Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

No basis or support is found in the present specification for "one to four carbons". This material was added by preliminary amendment on 9/15/98 and should be deleted from the specification and claims as adding new matter to the as filed disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 21, and 24-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 encompasses an improper Markush grouping because of the use of multiple "and" clauses. See MPEP 2173.05(h)(a). In addition, the claim is confusing in that the antecedent basis for "related derivatives and analogs" is unclear. If it is "jasmonate-related compounds", it cannot be readily ascertained what constitutes "related derivatives and analogs" of already "related" compounds.

Claim 9 is indefinite in that the language "the alkyl group esterified to jasmonic acid" fails to find proper antecedent basis in claim 8.

Claim 12 fails to find proper antecedent basis in claim 11 for "the heavy metal is" is this an ion, complex or heavy metal containing compound?

Claims 39 and 40 fail to find proper antecedent basis for "uninduced suspension culture". Claim 1 is directed to "an enhancement agent".

Claim 41 is confusing in the recitation of "the said" at line 1.

Claim 42 appears incomplete at line 2 in the phrase "is changed to a second medium". Inasmuch as the composition of the first medium is not indicated the claim is confusing, since it is unclear how it is "changed"? Are the cells cultured in the second medium?

In claim 43 the amount intended by "lower" and "higher" are undefined, rendering the claim vague and indefinite. Also the nature of "saccharide" in claims 43-48 is not delineated. Is it a monosaccharide, a disaccharide or a polysaccharide? It is apparent that the cells are cultured in sucrose or maltose.

In claim 49 the process of "exchanging nutrient medium" is not set forth with sufficient clarity, since the nature of the exchange process is not clear. It is recommended that language more in line with art recognized terminology be substituted therefor, such as "replenishing medium components and removing spent medium" (Specification, page 55, paragraph 4). As written the claims are confusing as to whether nutrients are replenished or the source of carbon, nitrate, enhancer, etc. is "exchanged". Similarly, the nature of the process in claim 54 of "periodic nutrient medium exchange" is not manifest.

Regarding claim 66, it is unclear whether the cells are intended cultured in the absence of saccharide or nitrate.

Serial No. 09/083179
Art Unit 1651

-4-

Claim 32 is confusing in that the intended meaning of "auxin-related growth regulator" is not manifest. Is the relationship to auxin close or far?


Claim 69 is incomplete as depending on claim 71, which is not of record.

The claims are free of the art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irene Marx whose telephone number is (703) 308-2922.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196 .


Irene Marx
Primary Examiner
Art Unit 1651